

1 BILL NO. S-89-12- 03

2 SPECIAL ORDINANCE NO. S- 210-89

3 AN ORDINANCE AUTHORIZING THE CITY OF
4 FORT WAYNE TO ISSUE ITS ECONOMIC
5 DEVELOPMENT REFUNDING REVENUE BONDS,
6 SERIES 1989 (WILLIAM P. BAER PROJECT)
7 AND APPROVING OTHER ACTIONS IN RESPECT
8 THERETO.

9 WHEREAS, the Fort Wayne Economic Development Commission
10 adopted a resolution on December 12, 1989, which Resolution
11 has been transmitted hereto, finding that the refunding of
12 bonds previously issued to finance certain economic
13 development facilities of William P. Baer, complies with the
14 purposes and provisions of I.C. 36-7-11.9 and 12 and I.C. 5-1-
15 5 and that such financing will be of benefit to the health and
16 welfare of the City of Fort Wayne and its citizens; and

17 WHEREAS, the Fort Wayne Economic Development Commission
18 has heretofore approved and recommended the adoption of this
19 form of Ordinance by this Common Council, has heretofore
20 considered the issue of adverse competitive effect and has
21 approved the forms of and has transmitted for approval by the
22 Common Council the Loan Agreement, Note, Trust Indenture and
23 the Letter of Credit.

24 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
25 THE CITY OF FORT WAYNE, INDIANA, THAT:

26 SECTION 1. It is hereby found that the refunding of
27 the previously issued City of Fort Wayne, Indiana Economic
28 Development Revenue Bond (William P. Baer Project) (the
29 "Original Bond") referred to in the Loan Agreement approved by
30 the Fort Wayne Economic Development Commission and presented
31 to this Common Council, the issuance and sale of revenue
32 bonds, the loan of the proceeds of the revenue bonds to
William P. Baer (the "Borrower") for the refunding of the
Original Bond originally issued to finance the acquisition and
construction of economic development facilities of the

PAGE 2

Borrower, the payment of revenue bonds by the payments of the Borrower under the Loan Agreement and Note, and the securing of bonds under the Trust indenture complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and I.C. 5-1-5 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The financing consists of the refunding of the Original Bond which was issued to finance the cost of acquisition and construction of a manufacturing facility used in the production of a high corrosion resistant finish, located at 4301 Engle Road, in Fort Wayne, Indiana (the "Project"). The Project has been leased by the Borrower to Indiana Coatings Corp. for operation.

SECTION 3. At the public hearing held by the Fort Wayne Economic Development Commission on July 17, 1986, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City of Fort Wayne, and found, based on special findings of fact made at that time, that the facilities would not have an adverse competitive effect. This Common Council heretofore confirmed and does hereby confirm the findings set forth in the Commission's Resolutions, and concluded and concludes that the Project will not have an adverse competitive effect on any other similar facilities in or near the City of Fort Wayne, and the Project will be of benefit to the health and welfare of the citizens of the City of Fort Wayne.

SECTION 4. The substantially final forms of the Loan Agreement, Note, Trust Indenture and Letter of Credit approved by the Fort Wayne Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions

1 of I.C. 36-1-5-4, two (2) copies of the Financing Agreement
2 are on file in the office of the Clerk for public inspection.

3 SECTION 5. The City of Fort Wayne shall issue its
4 Economic Development Refunding Revenue Bonds, Series 1989
5 (William P. Baer Project) in the total principal amount of Six
6 Hundred One Thousand Two Hundred Fifty Dollars (\$601,250) and
7 maturing no later than June 15, 1996. Said bonds are to be
8 issued for the purpose of procuring funds to pay the costs of
9 refunding the Original Bond which was issued to finance the
10 acquisition and construction of the economic development
11 facilities, as more particularly set out in the Trust
12 Indenture and Loan Agreement incorporated herein by reference,
13 which bonds will be payable as to principal, premium, if any,
14 and interest from the payments made by the Borrower under the
15 Loan Agreement and Note or as otherwise provided in the above
16 described the Trust Indenture. The bonds shall be issued in
17 fully registered form in the initial denomination of \$601,250
18 and shall be redeemable as provided in Article V of the Trust
19 Indenture. Payments of principal and interest are payable in
20 lawful money of the Unites States of America at the principal
21 office of the Trustee or its successor in trust or by check
22 mailed or delivered to the registered owners as provided in
23 the Trust Indenture. The bonds shall never constitute a
24 general obligation of, an indebtedness of, or a charge against
25 the general credit of the City of Fort Wayne, nor are the
26 bonds payable in any manner from revenues raised by taxation.

27 SECTION 6. The Mayor and Clerk are authorized and
28 directed to sell such bonds. The rate of interest per annum
29 on the bonds shall not exceed 7.5% per annum. The bonds shall
30 be sold to the purchaser thereof at a price of not less than
31 nine (9)% of the principal amount thereof.

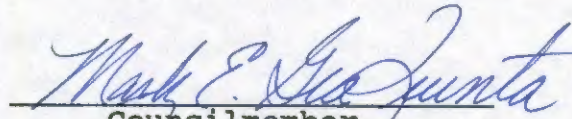
32 SECTION 7. The Mayor and Clerk are authorized and
directed to execute, attest, affix or imprint by any means the
City seal to the documents constituting the Financing
Agreement approved herein on behalf of the City and any other

document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Trustee named in the Trust Indenture, and payment for the bonds will be made to the Trustee named in the Trust Indenture and after such payment the bonds will be delivered by the Trustee to the purchaser thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the bonds to the Trustee within ninety days of the adoption of this ordinance. The bonds shall be originally dated the date of issuance and delivery thereof.

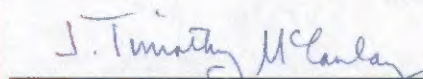
SECTION 8. The provisions of this Ordinance and the Trust Indenture securing the bonds shall constitute a contract binding between the City of Fort Wayne and the holders of the Economic Development Refunding Bonds, Series 1989 (William P. Baer Project) and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said bonds or the interest thereon remains unpaid.

SECTION 9. The Original Bond was issued pursuant to the \$10,000,000 small issue exemption now set forth in Section 144(a)(4) of the Internal Revenue Code of 1986, and to the extent necessary, the City hereby elects to issue the bonds to refund the Original Bond under the same exemption.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

FOUR STAR BOND
SOUTHWORTHCO USA

Read the first time in full and on motion by GiaQuinta, seconded by Henry, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on 12-12-89, the 12 day of December, 1989, at 1 o'clock P.M., E.S.T.

DATED: 12-12-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the ^{third} time in full and on motion by Henry, seconded by Henry, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY				<u>✓</u>
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 12-26-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. J-210-89 on the 26th day of December, 1989,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of December, 1989, at the hour of 9:15 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of December, 1989, at the hour of 10:15 o'clock A.M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE SPECIAL ORDINANCE

J-89-1203

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT

SYNOPSIS OF ORDINANCE ALLOWS THE CITY OF FORT WAYNE TO ISSUE

ECONOMIC DEVELOPMENT REFUNDING REVENUE BONDS IN THE AMOUNT OF

\$601,250 FOR THE WILLIAM P. BAER PROJECT.

EFFECT OF PASSAGE ALLOWS THE ISSUANCE OF BONDS FOR THE

WILLIAM BAER PROJECT

EFFECT OF NON-PASSAGE PROJECT CANNOT BE COMPLETED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-89-12-03

REPORT OF THE COMMITTEE ON FINANCE

MARK E. GIAQUINTA, CHAIRMAN
THOMAS C. HENRY, VICE CHAIRMAN
BRADBURY, SCHMIDT, BURNS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS
REFERRED AN (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) AUTHORIZING THE CITY OF
FORT WAYNE TO ISSUE ITS ECONOMIC DEVELOPMENT REFUNDING REVENUE
BONDS, SERIES 1989 (WILLIAM P. BAER PROJECT) AND APPROVING OTHER
ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION)

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
<u>Mark E. Giaquinta</u>	_____	_____	_____
<u>Thomas C. Henry</u>	_____	_____	_____
<u>Janet H. Bradbury</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DATED: 12-26-89.

Sandra E. Kennedy
City Clerk